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8 **UNITED STATES BANKRUPTCY COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **OAKLAND DIVISION**

11 In Re ) Case No. 11-47858  
12 )  
13 JOHN ALBERT LOUGH, JR. and )  
JACQUELINE ELIZABETH LOUGH, )  
14 Debtors. )  
15 )

16 **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN**

17 Creditor MERIWEST CREDIT UNION (herein the "Credit Union") hereby objects to  
18 confirmation of the Plan proposed by Debtor in the above-entitled matter as follows:

19 **FACTS**

20 The Credit Union is the holder of a claim based upon a Retail Installment Sale Contract dated  
21 August 4, 2008, relating to the purchase of a 2008 Nissan Versa automobile. (The sale contract was  
22 originally entered by and between Debtors and Antioch Nissan, but the rights of Antioch Nissan were  
23 subsequently purchased by and assigned to the Credit Union on or about August 4, 2008.)

24 The Credit Union's claim is secured by a duly perfected lien interest in the 2008 Nissan Versa  
25 automobile ("collateral").

26 The principal balance owed to the Credit Union on such claim, on the date Debtor filed the  
27 bankruptcy petition was \$10,144.09.

28 The Credit Union believes the replacement value of the collateral, on the date Debtor's petition

1 was filed, was \$12,275.00. The Credit Union bases this value on the retail value for the collateral, as  
2 shown in the Kelley Blue Book Official Car Guide, July 2011 edition, which is attached hereto as Exhibit  
3 “A”.

4 **OBJECTION TO CONFIRMATION OF PLAN**

5 **1. The value of the security is greater than that stated by Debtor.**

6 11 U.S.C. §1325(a)(5) requires, as a condition to confirmation of the plan, that the plan provide  
7 that “the value, as of the effective date of the plan, of property to be distributed under the plan on account  
8 of such claim is not less than the allowed amount of such claim. . .” Debtor’s proposed Plan sets a value  
9 upon the collateral which is less than its replacement value, in violation of 11 U.S.C. §1325(a)(5).

10 11 U.S.C. § 506(a)(2) provides “if the debtor is an individual in a case under chapter 7 or 13, such  
11 value with respect to personal property securing an allowed claim shall be determined based upon the  
12 replacement value of such property as of the date of the filing of the petition without deduction for costs  
13 of sale or marketing. With respect to property acquired for personal, family, or household purposes,  
14 replacement value shall mean the price a retail merchant would charge for property of that kind  
15 considering the age and condition of the property at the time value is determined.”

16 Debtor has moved the court to value the Credit Union’s security interest in the collateral at  
17 \$8,615.00. The Credit Union believes the replacement value of that collateral is at least \$12,275.00, and  
18 believes it may be greater than that amount. The Credit Union bases this value on the retail value for the  
19 collateral, as shown in the Kelley Blue Book Official Car Guide, July 2011 edition. Therefore, the plan  
20 fails to meet the requirement of 11 U.S.C. § 1325 (a)(5).

21 The Credit Union’s investigation has not yet been completed, and the Credit Union may have  
22 additional bases for objection to the Plan after completion of such investigation.

23 Accordingly, Creditor MERIWEST CREDIT UNION objects, pursuant to 11 U.S.C. § 1324, to  
24 the confirmation of the proposed Plan.

25 **MOORE, BREWER, JONES, TYLER & NORTH**

26 Dated: August 3, 2011

27 By: /s/ John Mendonza  
28 JOHN MENDONZA  
Attorney for Creditor  
MERIWEST CREDIT UNION